

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

W.P(C).No. 37341 of 2007(U)

PETITIONER:

**V.R.INDIRA, AGED 42 YEARS,
W/O. JAYAPRAKASH, NOW RESIDING AT VIJAYAPURAM
HOUSE, MUNDAMALA P.O., KUMBANADU,
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.V.K.PEERMOHAMED KHAN

RESPONDENTS:

- 1. INDIAN BANK,
THIRUVALLA BRANCH, THIRUVALLA.**
- 2. AUTHORISED OFFICER,
INDIAN BANK, CIRCLE OFFICE, P.B.NO.3575,
38/1672-B & C, CHITTOOR ROAD, PULLEPADY JN.,
ERNAKULAM-35.**

BY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ANTONY DOMINIC, J.

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W.P. (C) No. 37341 OF 2007 – U
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Dated this the 17th December, 2007

J U D G M E N T

The petitioner is a surety to a loan transaction which her husband had entered into with the 1st respondent Bank. When proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 were initiated, the defaulter, ie. her husband, approached this Court by filing a writ petition and this Court has directed the petitioner to file an undertaking that he shall settle the liability before 15-10-2007. Accordingly undertaking was filed and acting upon that undertaking time was granted. Though the Bank was aggrieved by the leniency shown by the learned Single Judge and had filed Writ Appeal No. 1858/07, by Ext. P3 a Division Bench of this Court dismissed the same. Thereafter the defaulter filed an application in the writ appeal for extension of time for making payments as undertaken by him before the learned Single Judge. That application has been rejected. It is also stated that against the order of the Division Bench rejecting

his application for extension of time, he had moved an SLP before the Apex Court and that was also rejected. Thereafter, he tried his luck before the Debt Recovery Tribunal where also it was without success and the DRT permitted the Bank to go ahead with the same.

2. Presently the tenders that were received by the Bank in response to Ext. P5 notice published are due for reopening on 21.12.2007. At this stage, the defaulter's wife has filed this writ petition challenging the proceedings and alleging violation of the rules in the matter of sale of the properties. In view of the litigation that has been instituted by her husband who is the principal debtor and the judgment that has been obtained by him I am not inclined to permit the petitioner to reopen the whole issues once again. As already noticed, it was on the petitioner's husband's undertaking that time was granted which means that all contentions that were available have been given up. If that be so, at this stage, I do not think that it will be open to the petitioner, who is none other than the wife of the principal debtor, to raise all the contentions once again.

Writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-